IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.733 OF 2007

Riyas Sirajuddin Khan ...Applicant.
V/s.
The State of Maharashtra ...Respondent.

Shri Murtaza Najmi adv. appointed for the Applicant.
Shri D.P.Adsule, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 30TH April, 2007.

P.C.:

1. Heard Mr.Murtaza Najmi advocate appointed for the applicant, who is in jail as undertrial prisoner in Sessions Case No.622 of 2006 pending before the Ad-hoc Additional Sessions Judge,Shri M.V.Deshpande at Sewree, Bombay. Though he seeks transfer of his case from that court, no ground is made out for the same. Mainly his grievance is that he is not given an opportunity to have interview with his advocate before and after the trial and secondly, examination-in-chief of the witnesses are taken even when the advocate for the applicant is absent and the applicant is called upon to cross-examine the witnesses. Infact it is the responsibility of the advocate of the applicant to remain present when the case is fixed for the trial and he should not give occasion to the Court to adjourn the matter or to record the evidence of witnesses in his absence.

2. Taking into consideration the grievance, the applicnt shall be given an opportunity to have interview with his advocate before and after the trial proceeding either in the jail premises or if he so desires in the Court campus. The advocate for the applicant appearing before the trial Court should remain present whenever the case is fixed for trial and should not give occasion to the Court to record the evidence of the witnesses in his absence. However, if the advocate does not remain present, it shall be presumed that he does not want to appear and the learned Additional Sessions Judge shall appoint some other advocate from the legal aid panel to conduct the case on behalf of the applicant. In such circumstances, advocate of the applicant shall not be allowed to appear again unless he files his vakalatnama afresh. In case any prosecution witnesses, are already examined by the prosecution and whose cross-examination was not taken by the advocate of the applicant, may be recalled at the request made by the applicant.

3. With the aforesaid directions, application stands disposed off.

(J.H.Bhatia,J.)